

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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GREGORY CALABRESE,

CIVIL ACTION

Plaintiff,

- against-

**AMENDED COMPLAINT**  
**JURY DEMAND**  
1:19 CV 04714

UNITED STATES OF AMERICA, THE UNITED  
STATES SECRET SERVICE OF THE UNITED  
STATES DEPARTMENT OF HOMELAND SECURITY  
and SECRET SERVICE AGENT "JOHN DOE",

Defendants.

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**INTRODUCTION**

1. The claims herein are brought against the United States pursuant to the Federal Tort Claims Act 28 U.S.C. §2671, et seq. and 28 U.S.C. §1346(b)(1), for money damages as compensation for loss of property and personal injuries that were caused by the negligent and wrongful acts and omissions of employees of the United States Government while acting within the scope of their offices and employment, under circumstances where the United States, if a private person, would be liable to the Plaintiffs in accordance with the laws of the State of New York.

2. Plaintiff has complied with the provisions of 28 USC §2675. Plaintiff has exhausted his claims by filing the required claim form in a timely manner with the United States Department of Homeland Security and having his claim denied. (Form and denial letter annexed hereto as Exhibit "A").

**JURISDICTION**

3. This court has jurisdiction over this claim against the United States for money damages pursuant to 28 USC §1346 (b)(1).

4. The acts or omissions giving rise to the claim took place in Brooklyn, NY and therefore venue in the Eastern District of New York is proper pursuant to 28 USC §1402(b).

**CLAIMS**

5. That the plaintiff, GREGORY CALABRESE, is a Citizen of the United States and a resident of the City of New York, County of Kings, State of New York.

6. That at all times hereinafter mentioned Plaintiff, GREGORY CALABRESE, was the operator of a certain motorcycle bearing NY State license plate number 14RZ66.

7. Upon information and belief that at all times hereinafter mentioned the Defendant, "JOHN DOE", so named because plaintiff is as yet unaware of his/her identity, was the operator of a certain motor vehicle bearing NY State license plate number FTB1004.

8. Upon information and belief that at all times hereinafter mentioned the Defendant, THE UNITED STATES SECRET SERVICE OF THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY, owned a certain motor vehicle bearing NY State license plate number FTB1004.

9. Upon information and belief that at all times hereinafter mentioned the Defendant, UNITED STATES OF AMERICA, owned a certain motor vehicle bearing NY State license plate number FTB1004.

10. At all times herein, defendant, "JOHN DOE", was an employee of THE UNITED STATES SECRET SERVICE OF THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY and was operating a certain motor vehicle bearing NY State license plate number FTB1004 with the consent and permission of defendant United States Secret Service of the United States Department of Homeland Security express or implied.

11. At all times herein, defendant, "JOHN DOE", was an employee of the UNITED STATES OF AMERICA, and was operating a certain motor vehicle bearing NY State license plate number FTB1004 with the consent and permission of defendant United States Secret Service of the United States Department of Homeland Security express or implied.

12. That at all times herein, defendant, "JOHN DOE" was operating a certain motor vehicle bearing NY State license plate number FTB1004 in the course of his employment with THE UNITED STATES SECRET SERVICE OF THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY.

13. That at all times herein, defendant, "JOHN DOE" was operating a certain motor vehicle bearing NY State license plate number FTB1004 in the course of his employment with the UNITED STATES OF AMERICA.

14. That at all times hereinafter mentioned, Cropsey Avenue and Bay 43<sup>rd</sup> Street, in the County of Kings, City and State of New York, were and still are public streets and/or thoroughfares.

15. That on August 19, 2017, at approximately 6:00 P.M., Plaintiff, GREGORY CLABRESE, was lawfully and properly driving and operating the said motorcycle at the aforesaid location.

16. It was the duty of the defendants to use reasonable care in the ownership, operation, maintenance and control of the aforesaid motor vehicle.

17. That on August 19, 2017, at approximately 6:00 P.M., the Defendant, JOHN DOE, carelessly and negligently drove and operated the aforesaid motor vehicle at the said location causing the aforesaid vehicles to collide and the Plaintiff, GREGORY CLABRESE, to sustain severe and serious personal injuries as hereinafter alleged.

18. That the aforesaid occurrence was due solely to the negligence, culpable conduct, carelessness and recklessness of the Defendants in the ownership, operation, management, maintenance and control of said vehicle.

19. That by reason of the foregoing, the Plaintiff, GREGORY CLABRESE, was severely and seriously injured, bruised and wounded; suffered, still suffers and will continue to suffer for some time to come great physical and mental pain; and was prevented from pursuing Plaintiff's usual vocation for a long period of time and was compelled to seek and become obligated for hospital and medical care and attention.

20. That by reason of the foregoing, the Plaintiff, GREGORY CLABRESE, suffered a serious injury as defined by Subsection (d) of Section 5102 of the Insurance Law of the State of New York.

21. That by reason thereof, the Plaintiff, GREGORY CLABRESE, is entitled to recover for non-economic loss and for such economic losses as are not included within the definition of "basic economic loss" as set forth by Subsection (a) of Section 5102 of the Insurance Law of the State of New York.

22. That this action falls within one or more of the exceptions enumerated in Art 16 of the CPLR.

23. That by reason of the negligence of the Defendant as aforesaid, the Plaintiff has been damaged as follows:

Pain and suffering \$350,000  
Medical expenses \$18,767.61  
Property damage \$1,361.19

WHEREFORE, Plaintiff demands judgment against the Defendant in the amount of \$370,128.80

Dated: Flushing, New York  
October 8, 2019



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THE ORLOW FIRM  
By: Adam M. Orlow  
Attorney(s) for Plaintiff  
Office and P.O. Address  
71-18 Main Street  
Flushing, NY 11367  
(718) 544-4100





U.S. Department of Homeland Security  
**UNITED STATES SECRET SERVICE**

JUN - 5 2019

**REGISTERED MAIL**

Brian S. Orlow  
The Orlow Law Firm  
71-18 Main Street  
Flushing, New York 11367

Re: Motor Vehicle Accident on August 19, 2017  
Your client: Gregory Calabrese  
Our case no.: 108-809-306117

Dear Mr. Orlow:

We have received the Standard Form (SF) 95 and supporting documentation you submitted on behalf of your client for property damage and personal injuries allegedly sustained in an accident on August 19, 2017, involving your client's motorcycle and a vehicle driven by a Secret Service employee in Brooklyn, New York.

Under the provisions of Title 28, United States Code, Section 2672, the Department of Homeland Security is liable for damages including loss of property caused by negligent or wrongful acts or omissions of an employee acting within the scope of his or her employment under circumstances where the United States, if a private person, would be liable.

We have reviewed the facts and circumstances of this accident. Based on our investigation, as well as the police report documenting this accident, we have concluded that the Secret Service is not liable for your claim. Our investigation has revealed that the Secret Service vehicle involved in the accident slowed to a near stop as it approached the intersection, waiting for oncoming traffic to clear before attempting to make a legal U-turn. Your client, who was traveling behind our vehicle in the same lane of travel, then entered the intersection and struck our vehicle. Consequently, we must deny your claim.

Please be advised that if you are dissatisfied with this denial letter, you may institute suit in the appropriate Federal district court under the Federal Tort Claims Act no later than six (6) months from the date of this letter.

If you have any questions regarding this matter, please contact Attorney Advisor Lane Cryar at (202) 406-5771.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Callahan".

William J. Callahan  
Deputy Director

RE 001 641 297 US

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STATES DEPARTMENT OF HOMELAND SECURITY  
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**SUPPLEMENTAL SUMMONS & VERIFIED AMENDED COMPLAINT**  
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Flushing, NY 11367  
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